

REMARKS/ARGUMENTS

In accordance with the Examiner's suggestion, the application has been amended to add section headings where appropriate.

The Examiner has required a new title that is clearly indicative of the invention to which the claims are directed. The title has been amended herein to read "HEARING DEVICE WITH PERIPHERAL IDENTIFICATION UNITS."

Claims 12-15, 17 and 24-27 were rejected under 35 U.S.C. 102(e) over U.S. Patent No. 6,005,954 to Weinfurter (hereinafter "Weinfurter"). For the following reasons, the rejection is respectfully traversed.

Regarding claim 12, Weinfurter does not teach providing "an identification unit in at least one of said peripheral self-contained hardware units, the identification unit having an output and containing identification information identifying said hardware unit," as required. Similarly, regarding claim 24, Weinfurter does not teach a method of manufacturing a hearing device including a step of "automatically identifying said peripheral self-contained hardware unit," as required. The Examiner asserts that Weinfurter teaches "an identification unit *inherently* contained in at least one of the peripheral self-contained hardware units (12, 14, 16) *since it is known and accepted* that components, such as microphones, speakers, etc., would necessarily have identifying information that would be used by the processor and/or control logic to understand the function of the peripheral hardware unit relative to the function of the processor and/or control logic." Applicants respectfully disagree with Examiner's assertion. The Examiner appears to be taking Official notice that it is well known for peripheral components of hearing devices to contain identification units having identification information, as claimed. There is no support anywhere in the record of the instant application for this factual assertion, expressly or by implication. Therefore, in accordance with MPEP § 2144.03 (C), Applicants hereby challenge this factual

assertion as not being properly based upon common knowledge and request that the Examiner provide documentary evidence to support this assertion.

Further, the Examiner states that “the applicant makes a prior knowledge claims that it is known for these components to have an identifying unit (specification, page 1, lines 17-20). Applicants respectfully submit that the cited passage on page 1 of the specification is a description of Applicants’ own invention and not statement of what was previously known, as the Examiner contends. This is particularly apparent since the immediately prior paragraph states “Starting with a hearing aid of the above cited kind, it is the objective of the present invention . . .” This should clearly demarcate the beginning of the “Brief Summary of the Invention” section of the application. For further clarification, as mentioned above, the specification has been amended herein to incorporate section headings.

Additionally, with regard to claims 12 and 24, Applicant respectfully submits that it is not inherent, or even previously known (prior to the date of the claimed invention), for peripheral hardware units of hearing devices to be self-identifying. The only disclosure of this feature in the record of the instant application is in the Applicants’ own disclosure referring to the present invention. In fact, prior known hearing devices were not capable of interchanging different peripheral components without being appropriately configured to operate with the different components. As stated in the “Background of the Invention” section of the application, the manufacture of hearing aids to meet the numerous different requirements of users “requires setting up numerous different hearing-aid configurations which must be appropriately labeled and monitored and marketing requires commensurate stocking,” which results in “very high costs.” Without any evidence to the contrary in the record, the rejection of claims as being fully anticipated by the prior art due to the inherency of identification information cannot stand. Since claims 13-15, 17 and 25-27 depend, respectively, from claims 12 and 24, all of the remarks and arguments made

above with regard to claims 12 and 24 also apply thereto.

Claims 16 and 18-21 were rejected under 35 U.S.C. 103(a) as being obvious over Weinfurtner. For the following reasons, the rejection is respectfully traversed.

For the reasons stated above with regard to claim 12, from which claims 16 and 18-21 depend, the identification unit, as claimed, is not taught explicitly or inherently by Weinfurtner. Further, there is no motivation or suggestion in Weinfurtner, or in the prior art of record, that would lead one of ordinary skill in the art to modify the teachings of Weinfurtner to include an identification unit containing identification information in at least one of its peripherals, as required by the claims. Since every limitation of the claims is not taught or suggested by the prior art, each of the claims of the instant application is patentable over the prior art of record.

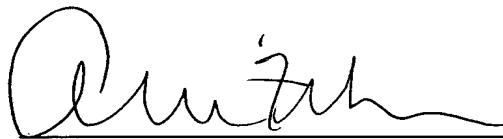
In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32794US1.

Respectfully submitted,

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